



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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DECEMBER 15, 2014

Regular meeting of the City Council held on Monday, DECEMBER 15, 2014 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Pope, Oram, Ossing, Robey, Delano, Page, Elder, Tunnera, Irish, Clancy, and Landers. Meeting adjourned at 8:22 PM.

ORDERED: That the minutes of the City Council meeting DECEMBER 1, 2014, **FILE;** adopted.

ORDERED: That the **PUBLIC HEARING** On the Petition of NGrid and Verizon New England, Inc. to install new primary riser P20-50 to be located 23' off roadway in between existing P20 and P21 Ames St. Also to install 2-4" conduits encased in concrete, one primary pull box and underground cable along Ames St. Conduit system will be installed 3' back of curb on the north side of the roadway. This installation is required to provide electrical service to new multifamily residential development – The Preserve at Ames, Order No. 14-1006034. All were heard who wish to be heard, hearing recessed at 8:04 PM.

Councilors Present: Pope, Ossing, Oram, Robey, Delano, Page, Elder, Tunnera, Irish, Clancy & Landers.

ORDERED: That the **PUBLIC HEARING** On the Petition of National Grid and Verizon New England, Inc. to relocate joint owned P.5 on Norwood St. 4' north and install sidewalk guy. Existing pole is deteriorated and will be relocated further away from customer's driveway entrance, Order No. 14-1006012. All were heard who wish to be heard, hearing recessed at 8:08 PM.

Councilors Present: Pope, Ossing, Oram, Robey, Delano, Page, Elder, Tunnera, Irish, Clancy & Landers.

MOTION made by Councilor Clancy to move Items 11& 12 to Item 4 – Carries

ORDERED: That the **Public Hearing** set for December 15, 2014, On the Application for Special Permit to modify existing Special Permit issued to Digital Federal Credit Union, 853-865 and 905 Donald Lynch Blvd. on June 16, 2003, to remove Condition #7 prohibiting LCD signs on the property, Order No. 14-1006011, X03-10047B, be and is herewith **CONTINUED TO A DATE TO BE SET IN JANUARY 2015.**

Councilor Delano recused from Items 4, 11 & 12.

ORDERED: That there being no objection thereto set **MONDAY, JANUARY 26, 2015** as **DATE FOR A NEW PUBLIC HEARING AFTER OPENING CURRENT PUBLIC HEARING** on the Application for Sign Ordinance Special Permit; Digital Federal Credit Union, 865 Donald Lynch Blvd, to operate an electronic message center sign at its bank branch located at 865 Donald Lynch Blvd., be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD AND ADVERTISE.**

Councilor Delano recused from Items 4, 11 & 12.

ORDERED: That the Mitigation Payment Acceptance from Atlantic Management in the amount of \$150,000.00 which moves funds from Undesignated to Sewer Maintenance to fund needed sewer upgrades for redevelopment project at 200 Forest St, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 10000-35900	\$150,000.00
Undesignated Fund	

TO:

Acct. # 19300006-55650	\$150,000.00
Sewer Maintenance	

ORDERED: That Fire Department transfer request in the amount of \$53,214.30 which moves funds from Fringe to Sick Leave Buy Back to fund the sick leave buy back for a retiring member of the Fire Department, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. # 11990006-51500	\$53,214.30
Fringe	

TO:

Acct. # 12200003-51920	\$53,214.30
Sick Leave Buy Back	

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Sustainable Materials Recovery Program Municipal Grant in the amount of \$19,100.00 and Clean Energy Project Grant in the amount of \$26,300.00 awarded to DPW for purchasing recycling containers & related public education materials and replacement of the boiler at the Millham Water Treatment Plant respectively; adopted.

ORDERED: That the "Panther Trail" Conceptual Plan, refer to **OPEN SPACE COMMITTEE**; adopted.

ORDERED:

EMINENT DOMAIN ORDER OF TAKING

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare and safety necessitates that the City acquire the legal interest in certain portion of D'Angelo Drive, being a cul-de-sac located at the westerly terminus thereof, by which the City accesses the Cedar Hill Pumping Station, and that said access requires the taking by eminent domain of the fee simple interest in said certain parcel of land located on D'Angelo Drive, as more particularly described herein; and,

WHEREAS, in order to promote the public welfare, safety and necessity, it is necessary to take by Eminent Domain the fee simple interest in the herein described land; and,

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, does hereby take by Eminent Domain the fee simple interest in the following described land and all trees and brush thereon.

DESCRIPTION OF LAND TAKEN

A certain parcel of land located at the westerly terminus of D'Angelo Drive in Marlborough, Middlesex County, Massachusetts and being shown as Lot 1B on a plan entitled "Plan of Land In Marlborough, Mass. Property of the Johnson Trust, Scale 1:40", dated Sept. 25, 1983, Surveyed by Drake Associates, Inc. Civil Engineers, Land Surveyors, 770 Grove Street, Framingham, Mass." and recorded with the Middlesex South Registry of Deeds as Plan 1074 of 1984.

Meaning and intending to take and taking by Eminent Domain the fee simple interest in the land shown as Lot 1B as described on the aforementioned plan, which land is a portion of the land described in the deed recorded at the Middlesex South Registry of Deeds in Book 11533, Page 556.

OWNER: Johnson Trust

The land consisting of Lot 1B, as referred to in the description above is also shown on the City of Marlborough Assessors Map as a portion of D'Angelo Drive on Map 118. The total land area being taken consists of 8,761 +/- square feet.

AWARD

The City Council hereby makes the following award of damages for the owner of record:

<u>Owner:</u>	Johnson Trust
<u>Assessors' Map/Parcel:</u>	D'Angelo Drive, shown on Map 118
<u>Area:</u>	8,761±SF
<u>Award:</u>	\$1.00

Refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from Assistant City Solicitor Panagore-Griffin re: Proposed Order to Grant an Easement to the Massachusetts Electric Company, **MOVED TO ITEM 27**; adopted.

ORDERED: That the Minutes, Board of Assessors, June 3, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, October 28, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Zoning Board of Appeals, November 18, 2014, **FILE**; adopted.

ORDERED: That the Minutes Conservation Commission, October 16 & November 6, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Marlborough High School Council, December 3, 2014, **FILE**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- A. Elaine Alden, 70 Kelleher St., pothole or other road defect.
- B. Doris Montoya, 479 Farm Rd., residential mailbox claim 2(a)
- C. James Burgarella, 76 O'Grady Rd., residential mailbox claim 2(b)

Reports of Committees:

THERE WERE NO REPORTS OF COMMITTEES.

ORDERED: That the following Capital Outlay Requests in the amount of \$1,356,628.00 to fund equipment that would qualify for five year capital bonds for DPW, Police Department and Emergency Management, **APPROVED**; adopted.

FROM:

Acct. # 10000-35900	\$1,356,628.00
Undesignated Fund	

TO:

Acct. # 19300006-58731	\$1,191,826.00
DPW Equipment	
Acct. # 19300006-58593	\$77,952.00
Dept. Equipment Police	
Acct. # 19300006-58596	\$86,850.00
Emergency Management	

ORDERED: That the Council on Aging transfer request in the amount of \$23,992.00 which moves funds from COA-Clerk and DPW-Finance Assistant to COA-Senior Clerk to fund a Senior Clerk position at the Council on Aging, **APPROVED**; adopted.

FROM:

Acct. # 15410002-50141	\$16,942.00
Council on Aging Clerk	
Acct. # 14001002-50062	\$7,050.00
DPW-Finance Assistant	

TO:

Acct. # 15410002-50770	\$23,992.00
Council on Aging-Senior Clerk	

ORDERED: That the Health Department transfer request in the amount of \$20,000.00 which moves funds from Mayor-Audit Services and Comptroller-Senior Clerk to Board of Health Contract Services to fund food compliance, inspectional services, and plan reviews of new food establishments, **APPROVED**; adopted.

FROM:

Acct. # 11210004-53080 \$18,500.00

Mayor-Audit Services

Acct. # 11330002-50770 \$1,500.00

Comptroller Senior Clerk

TO:

Acct. # 15120004-53140 \$20,000.00

Board of Health Contract Services

ORDERED: That the Fire Department transfer request in the amount of \$159,777.53 which moves funds from and to various account as noted in the attached spreadsheets to mostly fund the sick leave and vacation buyback for a retiring member and to fund the overtime account which has received higher than projected usage, **APPROVED**; adopted.

CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT:		Fringe			FISCAL YEAR:		15		
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$400,000.00	\$65,940.30	11990006	51500	Fringe	\$65,940.30	12200003	51920	Sick Leave	\$188,850.00
Reason:		Retirement payout of sick leave							
\$400,000.00	\$68,698.80	11990006	51500	Fringe	\$68,698.80	12200001	50450	Firefighter	\$2,334,099.21
Reason:		Payout of vacation buy back							
\$134,639.10	Total				\$134,639.10	Total			
CITY OF MARLBOROUGH BUDGET TRANSFERS --									
DEPT:		FIRE			FISCAL YEAR:		15		
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$2,334,099.21	\$25,138.43	12200001	50450	Firefighter	\$25,138.43	12200003	51300	Overtime	\$106,355.69
Reason:		Transfer is available due to 111F payments							
\$25,138.43	Total				\$25,138.43	Total			

ORDERED: That the DPW transfer request in the amount of \$24,630.00 which moves funds from Fringes to Sick Leave Buy Back to fund obligations due to a retiring member, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	DPW - Water Division					FISCAL YEAR:	2015		
		FROM ACCOUNT:					TO ACCOUNT:			
Available	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available	
Balance									Balance	
\$400,000.00	\$24,630.00	11990006	51500	Fringes	\$24,630.00	61090003	51920	Sick Leave Buy Back	\$16,500.00	
	Reason:	Sick Leave Buy Back					Retirement			
	\$24,630.00	Total			\$24,630.00	Total				

Note: There was no action taken on Order No. 14-1005997. Turf Field Bond in the amount of \$3,855,059.00 and remains the Finance Committee.

President Pope requested a recess at 8:18 PM and returned to open meeting at 8:19 PM; adopted.

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, ACTING UPON A RECOMMENDATION OF THE MAYOR, THAT THE CODE OF THE CITY OF MARLBOROUGH (HEREINAFTER, THE "CITY CODE"), AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. Section 67-10, entitled "Comptroller-Treasurer; appointment, term and duties" is hereby amended by deleting paragraph A. in its entirety and inserting in place thereof the following:
 - A. The Mayor shall, subject to confirmation of the City Council, appoint a Comptroller-Treasurer for a term of three years to expire the day following his/her approval by the City Council. The Comptroller-Treasurer will be the Chief Financial Officer of the City and shall perform the duties of the Treasurer as set forth in the General Laws of the Commonwealth of Massachusetts, the Code of the City of Marlborough and shall further comply with all other statutes, regulations and ordinances relative to his/her duties as Comptroller-Treasurer.
- II. Paragraph A. of Section 67-11, entitled "Tax Collector; appointment, terms, and duties", is hereby amended as follows:
 - a. In the first sentence of said paragraph, by deleting the word "annually" and inserting in place thereof the words "for a two year term to expire the day following his/her approval by the City Council."; and
 - b. In the second sentence of said paragraph, by deleting the word "He" as it appears and inserting in place thereof the words "The Tax Collector," and by deleting the word "him" and inserting in place thereof the words "him/her," so that said second sentence shall be as follows: "The Tax Collector shall perform all the duties required of him/her as set forth in the General Laws of the commonwealth."

ORDERED ADVERTISED; adopted.

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, ACTING UPON A RECOMMENDATION OF THE MAYOR, THAT § 586-44 OF ARTICLE VI, ENTITLED “PENALTIES FOR PARKING VIOLATIONS,” OF THE CODE OF THE CITY OF MARLBOROUGH (HEREINAFTER, THE “CITY CODE”), AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

By striking from paragraph B. the figure “\$15” and inserting in place thereof the following figure: “\$25”.

ORDERED ADVERTISED; adopted.

ORDERED: That the City of Marlborough grant a permanent utility easement, to be executed by the Mayor on behalf of the City, to the Massachusetts Electric Company (a/k/a “NGrid”), as described in the attached Grant Of Easement and as shown on the sketch attached to said Grant as “Exhibit A,” entitled “Massachusetts Electric Southeast District, Hopedale; Feeder: 311W4; District Engineer: Bruce Kut; Work Location: 32 New Street, Marlboro, Ma; DATE: 07/24/14; EASEMENT DRAWING: 17321479,” for the purposes of installing, constructing, reconstructing, repairing, replacing, adding to, maintaining and operating the transmission of high and low voltage electric current and for the transmission of intelligence by means of overhead and underground systems, consisting of, but not limited to, a line of six (6) poles with wires and cables strung upon and all necessary anchors, guys and appurtenances, consisting of buried wires and cables and lines of wires and cables installed in underground conduits, manholes, transformers, and vaults, said overhead and underground systems being further described in the attached Grant Of Easement, which shall be recorded at the Middlesex South District Registry of Deeds, and as located, or to be located, in, under, through, over, across and upon certain parcels of land situated on the southerly end of New Street, the southerly end of Orchard Street, the easterly side of Hayden Street, the westerly side of Liberty Street, and the northerly side of South Street, being more particularly shown on Assessor’s Map 69, Parcel 394 and on Assessor’s Map 81, Parcel 190A.

APPROVED; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:22 PM.